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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/552,192	12/05/2006	Vega Masignani	PP020009.0003	8434	
NOVARTIS VACCINES AND DIAGNOSTICS INC. INTELLECTUAL PROPERTY- X100B P.O. BOX 8097 Emeryville, CA 94662-8097			EXAMINER		
			FORD, VANESSA L		
			ART UNIT	PAPER NUMBER	
•		1645			
			MAIL DATE	DELIVERY MODE	
			03/29/2011	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	plication No. Applicant(s)	
Office Action Occurs	10/552,192	MASIGNANI, VEGA	
Office Action Summary	Examiner	Art Unit	
	VANESSA L. FORD	1645	
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address	
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim vill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	ely filed the mailing date of this communication. (35 U.S.C. § 133).	
Status			
Responsive to communication(s) filed on 12 Ja This action is FINAL . 2b) ☐ This Since this application is in condition for allowar closed in accordance with the practice under E	action is non-final. nce except for formal matters, pro		
Disposition of Claims			
4) ☑ Claim(s) 2.3.5.6 and 12-27 is/are pending in the 4a) Of the above claim(s) 15 and 17-27 is/are with 5) ☐ Claim(s) is/are allowed. 6) ☑ Claim(s) 2.3.5.6.12-14 and 16 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or	vithdrawn from consideration.		
Application Papers			
9) ☐ The specification is objected to by the Examine 10) ☑ The drawing(s) filed on 10/6/05 is/are: a) ☑ acc Applicant may not request that any objection to the o Replacement drawing sheet(s) including the correct 11) ☐ The oath or declaration is objected to by the Ex	cepted or b) objected to by the drawing(s) be held in abeyance. See ion is required if the drawing(s) is obj	e37 CFR 1.85(a). ected to. See 37 CFR 1.121(d).	
Priority under 35 U.S.C. § 119			
 12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the priority documents application from the International Bureau * See the attached detailed Office action for a list 	s have been received. s have been received in Application rity documents have been receive u (PCT Rule 17.2(a)).	on No ed in this National Stage	
Attachment(s) 1) \(\overline{\text{N}} \) Notice of References Cited (PTO-892)	4) 🔲 Interview Summary	(PTO-413)	
2) Notice of Treferences Gred (170-032) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	ite	

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FINAL ACTION

1. Applicant's amendment and response filed January 12, 2011 are acknowledged.

Claims 2 and 12 have been amended.

Claims 1, 4, 7-11 and 28 have been canceled.

Claims 15 and 17-27 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 1, 2010.

Claims 2-3, 5-6, 12-14 and 16 are under examination.

2. It should be noted that claim 15 of the amendment filed January 12, 2011 has an incorrect status identifier. Claim 15 should be labeled as (withdrawn).

Objections/Rejections Withdrawn

- 3. In view of Applicant's amendment and response the following rejections have been withdrawn:
 - a) objection to claim 7, pages 3-4, paragraph 3.
 - b) objection to the specification, pages 4, paragraph 4.
 - c) objection to specification, sequence compliance, pages 4-5, paragraph 5.
 - d) rejection of claim 2 under 35 U.S.C. 101, page 5, paragraph 6.
 - e) rejection of claim 2-3, 5-6, 8-10, 12-14 and 16 under 35 U.S.C. 112 first paragraph (written description), pages 5-9, paragraph 7.

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f) rejection of claim 2-3, 5-6, 8-10, 12-14 and 16 under 35 U.S.C. 112 first paragraph (written description), pages 10-14, paragraph 8.

Rejection Maintained

4. The rejection under 35 U.S.C. 102(b) is maintained for claims 2-3, 5-6, 12-14 and 16 for the reasons set forth on pages 4-9 paragraph 4 of the previous Office Action.

The following rejection is maintained and reiterated below:

Claim Rejection - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The claims are rejected under 35 U.S.C. 102(b) as anticipated by Glaser et al (Science Vol. 294, October 26, 2001, p. 849-852).

Glaser et al teach a polypeptide that is a functional variant of SEQ ID No.1. Glaser et al teach a polypeptide (lin0059) that is 65.6% identical to SEQ ID NO.1.

Ouerv Match

65.6%; Score 2017; DB 2; Length 577;

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Query Match
                         Score 2017; DB 2; Length 577;
 Best Local Similarity
                    82.3%;
 Matches 408; Conservative
                        23; Mismatches
                                      35;
                                          Indels
                                                 30;
                                                     Gaps
7;
         1 MKEVNYREDDWREAKSALAPFAAANWVGGLFNNLEKVSKNMEEAEEDVQELDSDHAISFQ 60
QУ
           Db
         1 MKEVNYREDDWREAKSALAPFAAANWVGGLFNNLEKVSKNMEEAEEDIQELDSDRAISFQ 60
        61 HTNYRGKYSAIEDDLMVLYKFSCHAGEKMETLVDQPFYEKLDAFVDGMQDLSISTYSTTN
QУ
120
           Db
        61 HTNYRGKYSAIEDDLMVLYKFSCHAGEKMETLVDOPFYEKLDAFVDGMODLSISTYSTTN
120
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Qy 179	121	RIGAKSKQTYTTTSGGS-QVIESIKEGATIEDLMNGDNFYANQMQLQYRDWQRANPDQDV
Db 180	121	::: ::: ::
Qу 239	180	SKKDFQMGMLHSRAFEYKSIKDEQQEKEFWVNIVATVVIVGVSIFCPPAGLALAVGYGSL
Db 240	181	
Qy 299	240	EAGSAISGKDWVSGRELSTEERALRGGLALLDIVPGVKALSTGAKAASAGSKLVRVGDNV
Db 300	241	
Qу 359	300	LAGSKNVGKGTIDNGIQAGKQAMDLRLANAKKVSEAVQKKLTKDLDDIGTMAKTIQNKTK
Db 360	301	
Qy 417	360	ETFTLPPREQLAFARGGSIPEQSATGAAAIAAKKKLKDIMQNMDNLNVKGGGKDDIIE
Db 420	361	:
Qy 465	418	QNKSLKFTSLEESEKWGIDGFSVWRNSLSSREIQAIRDYTDIWHYGNM
Db 469	421	: : : ENSGKYLDDIEIPDNMKKWDYPPSKEL-FKKYEEVYKNPKYYNQETGAIN
Qy	466	NGYLRGSVEKLA 477
Db	470	:: : : WPPNNGFIGETHERLA 485

Glaser et al anticipate the claimed invention.

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Applicants Arguments:

Applicant urges that the limitations of claim 7, which was not subject to the

rejection, have been incorporated into claim 2. Applicant urges that the claims are

not anticipated by Glaser.

Examiner's Response to Applicant's Arguments

Applicant's arguments filed January 12, 2011 have been fully considered but

they are not persuasive.

Claim 2 is drawn to an isolated protein consisting of the amino acids sequence of

SEQ ID NO.1, with one or more mutations that reduce or eliminate ADP-ribosylating

activity of the protein wherein the one or more mutations are made at least one of the

following amino acid residues of SEQ ID NO: 504, 506, 537, 539, 548, 564, 567, 570,

573, 574 and 576.

The claims encompasses one or more mutations in the claimed isolated protein.

Glaser et al read on the claimed invention because Glaser et al teach a protein that has

one or more mutations, does not have ADP-ribosylating activity and has amino acid

residues of SEQ ID NO: 504, 506, 537, 539, 548, 564, 567, 570, 573, 574 and 576

deleted.

Status of Claims

5. No claims allowed.

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6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANESSA L. FORD whose telephone number is (571)272-0857. The examiner can normally be reached on 9 am- 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol can be reached on 571.272.0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vanessa L. Ford/ Primary Examiner, Art Unit 1645 March 22, 2011